



*Via Overnight Mail and Electronic Mail*

March 18, 2005

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station  
Boston, MA 02110

Re: Verizon Arbitration, D.T.E. 04-33

Dear Ms. Cottrell:

In accordance with the Arbitrators' Order dated March 8, 2005, today Conversent Communications of Massachusetts, LLC proposed to Verizon Massachusetts the attached TRRO Amendment to the parties' interconnection agreement.

Thank you. Please contact me (401-834-3326 direct dial or [gkennan@conversent.com](mailto:gkennan@conversent.com)) if you have any questions.

Very truly yours,

A handwritten signature in blue ink that reads 'Gregory M Kennan'.

Gregory M. Kennan  
Director, Regulatory Affairs and Counsel

GMK/cw

Cc: Service List

**AMENDMENT NO. \_\_\_\_**  
**to the**  
**INTERCONNECTION AGREEMENT**  
**between**  
**[VERIZON LEGAL ENTITY]**  
**and**  
**[CLEC FULL NAME]**

This Amendment No. [NUMBER] (the "Amendment") is made by and between [VERIZON LEGAL ENTITY] ("Verizon"), a [STATE OF INCORPORATION] corporation with offices at [VERIZON STATE ADDRESS], and Conversent Communications of Massachusetts, LLC, a limited liability company with offices at 313 Boston Post Road West, Marlborough, MA 01752[CLEC ADDRESS] ("Conversent"), and shall be deemed effective on \_\_\_\_\_ (the "Amendment Effective Date"). Verizon and Conversent are hereinafter referred to collectively as the "Parties" and individually as a "Party". This Amendment covers services in Verizon's service territory in the Commonwealth of Massachusetts (the "State"/"Commonwealth").

**WITNESSETH:**

**WHEREAS**, pursuant to an adoption letter dated [INSERT DATE OF ACTUAL ADOPTION LETTER] (the "Adoption Letter"), Conversent adopted in the Commonwealth of Massachusetts, the interconnection agreement between [NAME OF UNDERLYING CLEC AGREEMENT] and Verizon (such Adoption Letter and underlying adopted interconnection agreement referred to herein collectively as the "Agreement"); and

**WHEREAS**, the Federal Communications Commission (the "FCC") released an order on August 21, 2003 in CC Docket Nos. 01-338, 96-98, and 98-147 (the "Triennial Review Order" or "TRO"), which became effective as of October 2, 2003; and

**WHEREAS**, on March 2, 2004, the U.S. Court of Appeals for the District of Columbia Circuit (the "D.C. Circuit") issued a decision affirming in part and vacating in part the TRO (the "D.C. Circuit Decision"); and

**WHEREAS**, on August 20, 2004, the FCC released an Order in WC Docket No. 04-313 and CC Docket No. 01-338 (the "Interim Rules Order") setting forth certain interim rules regarding the temporary reinstatement of unbundling obligations for certain network elements; and

**WHEREAS**, the FCC released an order on February 4, 2005 in WC Docket No. 4-313 and CC Docket No. 01-338 (the "Triennial Review Remand Order" or "TRRO"), which became effective as of March 11, 2005; and

**WHEREAS**, pursuant to Section 252(a) of the Communications Act of 1934, as amended (the "Act"), the Parties wish to amend the Agreement in order to give contractual effect to certain provisions of the TRO and certain aspects of the D.C. Circuit Decision as set forth herein; and

**NOW, THEREFORE**, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. Amendment to Agreement. The Agreement is amended to include the following provisions and the Pricing Attachment to the TRO Amendment (including Exhibit A) attached hereto, all of which shall apply to and be a part of the Agreement notwithstanding any other provision of the Agreement or a Verizon tariff or a Verizon Statement of Generally Available Terms and Conditions ("SGAT").
2. General Conditions.
  - 2.1 Subject to the change of law provisions of this Amended Agreement and all other relevant provisions of this Amended Agreement, Verizon shall be obligated to provide access to unbundled Network Elements ("UNEs"), combinations of unbundled Network Elements ("Combinations"), or UNEs commingled with wholesale services ("Commingling"), to Conversent under the terms of this Amended Agreement pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.
  - 2.2 Conversent may not access a UNE, Combination, or Commingling for the exclusive provision of mobile wireless services or interexchange services. Subject to the foregoing limitation, Conversent may provide any telecommunications services over the same UNE, Combination, or Commingling.
3. Provision of Certain Facilities and Services.
  - 3.1 Verizon shall provide network elements consistent with the rates, terms and conditions of this Amendment and shall not make any unilateral changes to (including any discontinuances of) its offering of network elements. Verizon shall provide to Conversent access to DS1, DS3, and Dark Fiber Loops and DS1, DS3 and Dark Fiber Dedicated Transport (including Entrance Facilities) as set forth herein. Notwithstanding anything to the contrary set forth anywhere herein, Verizon shall not assess any of the transition rates set forth below for DS1 Loops, DS3 Loops and Dark Fiber Loops, or for DS1 Dedicated Transport, DS3 Dedicated Transport and Dark Fiber Dedicated Transport unless it has fully complied with Section 3.6 herein, and permits Conversent to commingle UNEs and UNE Combinations without restriction.
  - 3.2 Loops.
    - 3.2.1 High-Capacity Loops. Notwithstanding any other provision of the Agreement or a Verizon tariff or SGAT and subject to the provisions of Section 3.1 above, upon Conversent's request, Verizon shall provide Conversent with nondiscriminatory access to DS1 Loops and/or to DS3 Loops on an unbundled basis under the Amended Agreement in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law and as follows:
      - 3.2.1.1 Wire Center Criteria for High-Capacity Loops.
        - 3.2.1.1.1 If a Wire Center meets the Wire Center Criteria set forth below for the specified loop capacity, Verizon shall have no obligation to provide new loop UNEs between a customer premise and that Verizon serving Wire Center after March 11, 2005.
        - 3.2.1.1.2 A Wire Center meets the DS1 Loop Wire Center Criteria if the Wire Center serves more than 60,000 business access lines and has four or more Fiber-Based Collocators. A Wire Center meets the DS3 Loop Wire Center Criteria if the Wire Center serves more

than 38,000 business access lines and has four or more Fiber-Based Collocators.

3.2.1.1.3 Notwithstanding the foregoing, for DS1 Loops or DS3 Loops from a Wire Center that meets the Wire Center Criteria and that are provided to Conversent as a UNE as of March 11, 2005, Verizon shall continue to provide UNE loop access from such Wire Centers through March 10, 2006 at the terms and conditions set forth in this Agreement and at the transition rates set forth below. For all buildings served by a Wire Center that does not meet the above Wire Center Criteria, Verizon shall continue to provide DS1 Loops and DS3 Loops as UNEs pursuant to the rates, terms and conditions set forth in this Agreement for UNE loops.

#### 3.2.1.2. Loop Caps.

3.2.1.1.4 As of March 11, 2005, Verizon is no longer obligated to provide Conversent more than ten (10) DS1 Loops as UNEs to any single building; or to provide Conversent more than one DS3 Loop as a UNE to any single building (hereinafter referred to as "Loop Caps.").

3.2.1.1.5 Notwithstanding the foregoing, if, as of March 11, 2005, Verizon was providing Conversent loop access to any single building and the number of circuits provided to AT&T in that building exceeds the applicable Loop Caps, and the Wire Center does not meet the Wire Center Criteria, Verizon shall continue to provide access to the loops that exceed the Loop Cap through March 10, 2006, pursuant to the terms and conditions set forth in this Agreement for UNE loops and shall apply the transition rate to those circuits that are above the Loop Cap. For loops that are below the Loop Cap, the rates, terms and conditions for UNE loops set forth in this Agreement shall apply.

3.2.1.1.6 As of March 11, 2006 for those Wire Centers that do not meet the above Wire Center Criteria, Verizon shall offer loop access for circuits below the Loop Caps pursuant to the rates terms and conditions set forth in this Agreement for UNE loops, and for circuits above the Loop Caps, Verizon shall offer loop access for those circuits in accordance with Section 3.11 below.

#### 3.2.1.2 Transition Rates for DS1/D3 Loops.

3.2.1.2.1 As of March 11, 2005, Verizon may assess a transition rate for any DS1 Loops and DS3 Loops to which Verizon was providing Conversent access as of March 11, 2005, from Wire Centers that meet the Wire Center Criteria and which loops exceed the Loop Caps described above. The transition rate shall apply for the period from March 11, 2005 to March 11 2006. The transition rate shall not exceed the higher of (i) 115% of

the TELRIC rate Conversent paid for that element on June 15, 2004; or (ii) 115% of the TELRIC rate the Commission establishes, if any between June 16, 2004 and March 11, 2005.

3.2.1.2.2 If the Commission established a rate for unbundled loops between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, then Verizon must either accept all or reject all of those more recently established rates for purposes of establishing the transition rate for unbundled loops.

3.2.1.2.3 Verizon may assess a true up charge, as necessary, back to March 11, 2005, for any transitional charges that were not collected for the period between March 11, 2005 and the effective date of this Amendment. Although true-up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where Conversent timely pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

### 3.2.2 FTTH Loops, FTTC Loops, and Retirement of Copper Loops.

3.2.2.1 New Builds. Verizon shall not be required to provide nondiscriminatory access to a FTTH Loop or a FTTC Loop on an unbundled basis where Verizon has deployed such a Loop to a residential end user's customer premises that previously has not been served by any Verizon Loop.

3.2.2.2 Overbuilds. Verizon shall not be required to provide nondiscriminatory access to a FTTH Loop or a FTTC Loop on an unbundled basis when Verizon has deployed such a Loop parallel to, or in replacement of, an existing copper Loop facility, except that:

3.2.2.2.1 Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT and subject to the conditions in this Section below, Verizon shall maintain the existing copper Loop connected to the particular customer premises after deploying the FTTH Loop or FTTC Loop and provide nondiscriminatory access to that copper Loop on an unbundled basis unless Verizon retires the copper Loop pursuant to the terms of this Section 3.1.2.1.

3.2.2.2.2 If Verizon maintains the existing copper Loop pursuant to Section 3.1.2.1 above, until Conversent requests unbundled access to the loop, and such loop is to be placed back into service, Verizon need not incur any expenses to ensure that the existing copper Loop remains capable of transmitting signals. Upon receipt of such request, Verizon shall promptly restore the copper Loop to serviceable condition (as per Section 3.6 below).

3.2.2.2.3 If Verizon retires the copper Loop pursuant to Section 3.1.2.4 below, it shall provide nondiscriminatory access to 64 kilobits per second transmission paths capable of voice grade service over the FTTH Loop or FTTC Loop on an unbundled basis at TELRIC pricing.

3.2.2.2.4 Verizon shall not retire any copper Loop or copper Subloop and replace it with FTTH Loops unless it provides Conversent with notice of such retirement and that retirement has been approved consistent with the network disclosure requirements set forth in Section 3.1.2.5 below.

3.2.2.2.5 For retirement of copper Loops or copper Subloops that are replaced with FTTH Loops, Verizon shall file notice of such retirements with the FCC and Conversent at least 180 calendar days before the proposed retirement date. If the FCC approves the proposed retirement, and if the proposed retirement also meets any and all requirements of the Commission regarding the retirement of copper Loops, Verizon may proceed with the retirement consistent with Section 3.1.2.4 above. Notwithstanding the above, Verizon shall not retire any copper Loop or copper Subloop during the time that there is a pending Commission proceeding that is examining retirement rules. The requirements for the retirement of copper Loops also apply to the retirement of copper Subloops.

3.2.2.2.6 Verizon shall not make any changes to the underlying Loop architecture without providing notice of intent to make the change and notifying Conversent at least 180 calendar days before the actual change, and unless Verizon can demonstrate, in writing, if so requested by Conversent, that the proposed change will not, in any way, reduce the transmission capability of an unbundled Loop type employed by Conversent that would be affected by the change. In addition, Verizon shall not migrate Conversent copper Loops onto other network architectures without Conversent's prior approval.

3.2.2.2.7 Any approved network changes to the transmission characteristics of any Loop interface, including the retirement of a copper Loop or copper Subloop that have met the applicable requirements of this Section 3.1.2, shall be implemented according to mutually agreeable change management procedures.

3.2.3 Verizon shall not engineer the transmission capabilities of its network in a manner, or engage in any policy, practice, or procedure, that disrupts or degrades Conversent's access to, or ability to tap the full capabilities of, a local loop or subloop. As such, Verizon's modification of loop plant (e.g., removing copper feeder facilities and stranding CLEC's access to distribution subloop) shall not limit or restrict Conversent's ability to access all of the loop features, functions and capabilities, including DSL capabilities, nor increase

the price of any loop used by, or to be used by, Conversent. Furthermore, Verizon will not retire all or part of a copper loop facility or otherwise limit Conversent's access to copper loops unless Verizon has: (1) provided at least 180 days advance notice to Conversent of the planned modification; (2) offered alternative means for Conversent to serve affected and prospective customers with equivalent bandwidth and compatible protocol at no greater charge by Verizon had a copper loop remained available; and (3) received written acknowledgement from Conversent that the alternative is acceptable. In the event of a dispute, no change shall be implemented unless the Parties can resolve the dispute within 30 days, or, absent such resolution, the Commission approves the proposed change.

3.2.4 Dark Fiber Loops. Upon Conversent's request, Verizon shall provide Conversent with nondiscriminatory access to Dark Fiber Loops on an unbundled basis under the Amended Agreement in accordance with Section 3.1 above and 47 U.S.C § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.2.4.1 New Dark Fiber Loops Requested After March 11, 2005. Verizon shall have no obligation after March 11, 2005 to provide any new Dark Fiber Loops pursuant to the terms of this Agreement.

3.2.4.2 Embedded Base as of March 11, 2005.

3.2.4.2.1 Verizon shall, for Conversent's March 10, 2005 embedded base of Dark Fiber Loops, if any, continue to provide access to such embedded base pursuant to the terms and conditions set forth in the Amended Agreement for those Dark Fiber Loops, and pursuant to the transition rates provisions set forth below. Such transitional obligations apply through September 10, 2006.

3.2.4.2.2 As of March 11, 2005, Verizon may assess a transition rate to any Dark Fiber Loops for which Verizon is providing ConversentT unbundled access as of March 11, 2005. The transition rate shall apply for the period from March 11, 2005 through September 10, 2006. The transition rate shall not exceed the higher of (i) 115% of the TELRIC rate Conversent paid for that element on June 15, 2004; or (ii) 115% of the TELRIC rate the Commission establishes, if any between June 16, 2004 and March 11, 2005. If the Commission established a rate for unbundled dark fiber transport between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, Verizon must either accept all or reject all of those more recently established rates when establishing the transition rate for Dark Fiber Loops. Verizon may assess a true up charge, as necessary, back to March 11, 2005 to collect any transitional charges applicable to Dark Fiber Loops that were not collected for the period between March 11, 2005 and the effective date of this Amendment. Although true-up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where Conversent timely

pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

- 3.2.5 Network Interface Device. If Conversent requests access to a Loop, Network Interface Device ("NID") functionality shall be provided with such Loop and no additional NID charge shall be included.
- 3.2.6 Packet-based Loops. Where Verizon deploys a packet-based loop, Verizon must provide non-discriminatory access to at least 64 kbps loop connections that have software defined paths and performance parameters, and that meet service parameters (delay, sustained cell rate, call loss and peak cell rate) suitable for common telecommunication services and IP Enabled services.
- 3.2.7 Verizon must provide timely access to unbundled loops (i.e., the lesser of 3 days or the standard interval offered by Verizon to its retail customers). If Verizon is unable to provide timely access to unbundled loops (including causes due to lack of efficient processes or systems) and if Verizon has established, or can establish via Routine Network Modifications, broadband connectivity to the customer premise, then Verizon must provide timely access to a broadband loop (including all of the functions, features, and capabilities of the broadband loop) until such time as access to the requested unbundled loop is completed.
- 3.2.8 Maintenance, Repair, and Testing. Verizon shall provide, on a nondiscriminatory basis, physical loop test access points to Conversent at the splitter, through a cross-connection to Conversent's collocation space, or through a standardized interface, such as an intermediate distribution frame or a test access server, for the purpose of testing, maintaining, and repairing copper loops and copper Subloops.
- 3.2.9 Hybrid Loops.
  - 3.2.9.1 Broadband Services. When Conversent seeks access to a Hybrid Loop for the provision of "broadband services," as such term is defined by the FCC, then in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon shall provide Conversent with nondiscriminatory access under the Amended Agreement to the time division multiplexing features, functions, and capabilities of that Hybrid Loop, including DS1 or DS3 capacity (where impairment has been found to exist), on an unbundled basis, to establish a complete transmission path between the main distribution frame (or equivalent) in the end user's serving wire center and the end user's customer premises. This access shall include access to all features, functions, and capabilities of the Hybrid Loop except for the transmission of packetized information. Verizon shall perform all Routine Network Modifications necessary to provide the time division multiplexing features, functions, and capabilities of that Hybrid Loop.
  - 3.2.9.2 Narrowband Services. When Conversent seeks access to a Hybrid Loop for the provision to its customer of "narrowband services," as such term is defined by the FCC, then in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon may either (a) provide nondiscriminatory access under the Amended Agreement to a spare home-run



copper Loop serving that customer on an unbundled basis, or (b) provide nondiscriminatory access under the Amended Agreement, on an unbundled basis, to an entire Hybrid Loop capable of voice-grade service (i.e., equivalent to DS0 capacity), using time division multiplexing technology. If Conversent specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary.

- 3.2.9.3 IDLC Hybrid Loops. If Conversent requests, in order to provide narrowband services, unbundling of a 2 wire analog or 4 wire analog Loop currently provisioned via Integrated Digital Loop Carrier (over a Hybrid Loop) ("IDLC"), Verizon shall, pursuant to 47 U.S.C. Section 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law, provide Conversent unbundled access to a transmission path over Hybrid Loops served by IDLC systems, which shall be either through a spare copper facility or through the availability of Universal DLC systems. If neither of the aforementioned options is available, Verizon shall provide Conversent a technically feasible method of unbundled access. If Conversent specifies an unbundled copper loop in its order, Verizon shall provide an unbundled copper loop, using Routine Network Modifications as necessary.

- 3.3 Sub-Loop. Verizon shall provide Conversent with nondiscriminatory access to subloops on an unbundled basis at any technically feasible point (including at fiber distribution facilities) and pursuant to Section 251(c)(3) of the Act, Section 51.319(b) of the FCC's rules, and any other Applicable Law. One type of Subloop is Inside Wire Subloop, which is defined in Section 4.7.17 below. The subloop element shall include any and all of the features, functions, and capabilities of the subloop, including, but not limited to: (i) loop concentration/multiplexing functionality, (ii) loop distribution, and (iii) on-premises wiring owned or controlled by Verizon. Verizon shall also provide any combination of subloop elements ordinarily combined in the Verizon network, and any pre-existing combination of subloop elements shall not be separated unless so directed by Conversent.

- 3.3.1 Copper Subloops. Verizon shall provide Conversent with nondiscriminatory access to a copper subloop on an unbundled basis. A copper subloop is a portion of a copper loop, or hybrid loop, comprised entirely of copper wire or copper cable that acts as transmission facility between any point of technically feasible access, as defined in Section 3.9.2 below, and the end-user customer premises. A copper subloop also includes all intermediate devices (including repeaters and load coils) used to establish a transmission path between a point of technically feasible access and the demarcation point at the end-user customer premises, and includes the features, functions, and capabilities of the copper loop. Copper subloops include two-wire and four-wire analog subloops as well as two-wire and four-wire subloops conditioned to transmit the digital signals needed to provide digital subscriber line services, regardless of whether the subloops are in service or held as spares

- 3.3.2 Point of Technically Feasible Access. A point of technically feasible access is any point in Verizon's outside plant owned or controlled by Verizon, or is at or near a multiunit premises, where it is technically feasible for a technician to access the wire or fiber within a cable without removing a splice case to reach the wire or fiber and thereby establish connectivity. Such points include, but are not limited to, a pole or pedestal, the serving area interface, the network interface device, the minimum point of entry, any remote terminal, the single

point of interconnection, the feeder/distribution interface, and cross-connection panels deployed at the customer premises, and, with respect to copper feeder, the main distribution frame or its equivalent. Verizon shall upon a site-specific request by Conversent, provide access to a copper subloop at a splice near a remote terminal. Within thirty (30) days from the Amendment Effective Date, Verizon shall provide Conversent with a written proposal that describes in detail commercially viable methods that allow Conversent to access subloops in accordance with the terms of the Agreement, this Amendment and Applicable Law. Within ten (10) days of receipt of such proposal but in no case later than forty (40) days from the Amendment Effective Date, the Parties shall begin to negotiate mutually agreeable terms that effectuate commercially viable methods for Conversent to access subloops. The agreed upon methods shall be implemented within thirty (30) days after the Parties reach such agreement. Should the Parties not reach agreement within ninety (90) days from the Amendment Effective Date, either Party may pursue resolution of these issues pursuant to the dispute resolution provisions of the Amended Agreement and, to the extent they exist, the expedited dispute resolution processes of such Agreement. Until these issues are resolved by the Parties, or during the pendency of any dispute resolution proceeding initiated by a Party to resolve these issues, Verizon shall, notwithstanding the terms in Section 3.1.3 above, provide Conversent with access to the full frequency/spectrum of copper/fiber Hybrid Loops.

- 3.3.3 Collocation. Access to the copper subloop shall be subject to sections 51.321 and 51.323 of the FCC's collocation rules; provided, however, no collocation requirement may be imposed by Verizon at a customer's premises when Conversent uses the same or similar space to access Inside Wire Subloops.
- 3.3.4 Access to Multiunit Premises Wiring. Verizon shall provide Conversent with nondiscriminatory access to Inside Wire Subloops for access to multiunit premises wiring on an unbundled basis regardless of the capacity or type of media (including, but not limited to copper, coax, radio and fiber) employed for the Inside Wire Subloop.
  - 3.3.4.1 Single Point of Interconnection. Upon notification by Conversent that it requests interconnection and/or access to unbundled Inside Wire Subloops, at a multiunit premises and, if so requested by Conversent, Verizon shall provide a single point of interconnection (SPOI) that is suitable for use by multiple carriers. This obligation shall be in addition to Verizon's obligations, under section 51.319 (b) (2) of the FCC's rules, to provide nondiscriminatory access to a subloop for access to multiunit premises wiring, including any inside wire, at any technically feasible point and in any technically feasible manner (with Verizon having the burden of demonstrating infeasibility). Unless mutual agreement is reached with respect to completion of SPOI construction, Verizon shall complete the construction of the SPOI and provide Conversent with unrestricted access thereto not more than forty-five (45) days from receipt of a request by Conversent to construct a SPOI. Upon completion of the SPOI, Verizon agrees Verizon shall access all customers it serves at that location through the same SPOI. Verizon charges shall recover only total element long-run incremental cost for constructing any such SPOI. The charges for the SPOI shall be

recovered in a nondiscriminatory manner from all carriers (including the portion used by Verizon) using the SPOI. If, within fifteen (15) days from Verizon's receipt of a request from Conversent to construct a SPOI, Verizon and Conversent are unable to negotiate rates, terms, and conditions under which Verizon will provide this single point of interconnection, then any issues in dispute regarding this obligation shall be resolved in state proceedings under Section 252 of the Act. Notwithstanding arbitration of the rates, if Verizon has not completed construction the SPOI and provided access to Conversent within forty-five (45) days of Conversent's request, Conversent may elect to deploy its own cross connection configuration and connect it to the existing Verizon access point with no further financial obligation to Verizon. If the Verizon SPOI is subsequently made operational and pricing resolved, then Verizon may re-terminate the Conversent cross-connections, without additional charge to Conversent provided that Conversent may obtain a mutually agreeable customer release schedule. Verizon may, at its own option and expense, deploy a multi-carrier SPOI but only if that deployment does not delay Conversent access to customers in the MTE.

#### 3.3.4.2 Technical Feasibility.

3.3.4.2.1 If Verizon and Conversent are unable to reach agreement through voluntary negotiations as to whether it is technically feasible, or whether sufficient space is available, to unbundle a copper subloop or subloop for access to multiunit premises wiring at the point where Conversent requests, Verizon shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that there is not sufficient space available, or that it is not technically feasible to unbundle the subloop at the point requested by Conversent.

3.3.4.2.2 Best Practices. Once one state commission has determined that it is technically feasible to unbundle subloops at a designated point, Verizon, in any state, shall have the burden of demonstrating to the state commission, in state proceedings under Section 252 of the Act, that it is not technically feasible, or that sufficient space is not available, to unbundle its own subloops at such a point.

3.3.4.3 Connection to Subloops. Connection to subloops (including the network interface device (NID)), including but not limited to directly accessing the customer side or network side of the cross-connection device owned or controlled by Verizon, may be performed by Conversent technicians or its duly authorized agents, at its option, (i) without the presence of Verizon technicians, and (ii) at no additional charge by Verizon. Such connecting work performed by Conversent may include but is not limited to lifting and re-terminating of cross-connection or cross-connecting new terminations at accessible terminals used for subloop access. No supervision or oversight by Verizon

personnel shall be required but Verizon may monitor the work, at its sole expense, provided Verizon does not delay or otherwise interfere with the work being performed by Conversent or its duly authorized agents.

3.4 Dedicated Transport.

3.4.1 Verizon shall provide Conversent with Dedicated Transport in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law.

3.4.2 Unbundled Dedicated Transport Facilities. Notwithstanding any other provision of the Agreement or any Verizon tariff or SGAT, and in accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law, Verizon shall provide Conversent with DS1 Dedicated Transport, DS3 Dedicated Transport and Dark Fiber Dedicated Transport that connects a pair of Verizon Wire Centers ("Unbundled Dedicated Transport").

3.4.2.1 Upon Conversent's request, Verizon shall provide Conversent with nondiscriminatory access to DS1 Dedicated Transport, DS3 Dedicated Transport, and Dark Fiber Dedicated Transport on an unbundled basis pursuant to the Amended Agreement.

3.4.2.2 Wire Center Criteria for Unbundled Dedicated Transport. If the originating and terminating Wire Centers for a Dedicated Transport Route meet the Wire Center Criteria set forth below for the specified capacity, Verizon shall have no obligation to provide new UNE access to any additional dedicated interoffice transport over those routes after March 11, 2005.

3.4.2.2.1 A Wire Center meets the Wire Center Criteria if, for DS1 Dedicated Transport, the Wire Centers on each end of a Dedicated Transport Route serve more than 38,000 business switched access lines or have four or more fiber based collocators or both. A Wire Center meets the Wire Center Criteria if, for DS3 Dedicated or for Dark Fiber, the Wire Centers on each end of a Dedicated Transport Route service more than 24,000 business switched access lines or have three or more fiber based collocators or both.

3.4.2.2.2 For DS1 and DS3 Dedicated Transport UNEs that Verizon provided to Conversent as of March 11, 2005, that meet the above Wire Center Criteria, Verizon shall continue to provide such UNEs on those Routes through March 10, 2006. For Dark Fiber Dedicated Transport UNEs that Verizon provided to Conversent as of March 11, 2005, that meet the above Wire Center Criteria, Verizon shall continue to provide such UNE on those Routes through September 10, 2006. Such DS1 Unbundled Dedicated Transport, DS3 Unbundled Dedicated Transport and Dark Fiber Unbundled Dedicated shall be provided under the terms and conditions set forth in this Amended Agreement for UNE Dedicated Transport and at the transition rates set forth below.

3.4.2.2.3 For all Routes that do not meet the above Wire Center Criteria, Verizon shall continue to provide DS1 Dedicated Transport, DS3 Dedicated Transport and Dark Fiber Dedicated Transport as an UNE pursuant to the rates, terms, and conditions set forth in this Agreement for such transport.

3.4.2.2.4 If both the originating and terminating Wire Center meet both of the Wire Center Criteria, Verizon shall have no obligation to provide access as a UNE to any new Dark Fiber Dedicated Transport over those Routes after March 11, 2005.

3.4.2.3 Transport Caps.

3.4.2.3.1 As of March 11, 2005, Verizon is no longer obligated to provide DS1 Dedicated Transport as an Unbundled Network Element for more than 10 DS1 circuits on any Route on which it is not required to unbundle DS3 Dedicated Transport, or provide DS3 Dedicated Transport as an Unbundled Network Element for more than 12 DS3 circuits on any Route (hereinafter referred to as "Transport Caps").

3.4.2.3.2 Notwithstanding the foregoing, if, as of March 11, 2005, Verizon was providing DS1 Dedicated Transport or DS3 Dedicated Transport on a single Route to Conversent, and the number of circuits on that Route exceeds the applicable Transport Caps, and the Route does not meet the above Wire Center Criteria, Verizon shall continue to provide access to the circuits that exceed the Transport Caps through March 10, 2006, pursuant to the terms and conditions set forth in this Amended Agreement for UNE Dedicated Interoffice Transport and shall apply the Transition Rates to those circuits that are above the Transport Cap. For circuits on such Routes that are below the Transport Cap, the rates, terms, conditions and rates for UNE Dedicated Interoffice Transport set forth in this Amended Agreement shall continue to apply.

3.4.2.3.3 As of March 11, 2006, for those Routes that do not meet the Wire Center Criteria, Verizon shall offer Dedicated Transport for circuits below the Transport Caps pursuant to the rates, terms and conditions set forth in this Amended Agreement for UNE Dedicated Transport. For any circuits above the Transport Caps over those Routes, Verizon shall offer access to those circuits in accordance with the provisions of Section 3.11.

3.4.2.4 Transition Rates.

3.4.2.4.1 As of March 11, 2005, Verizon may assess a transition rate for any DS1, DS3, and Dark Fiber Dedicated Transport UNEs provided to Conversent on Routes for

which Verizon is providing Conversent access as of March 11, 2005 if those Routes meet the above Wire Center Criteria, and for those circuits that exceed the Transport Caps. The transition rate shall apply for the period from March 11, 2005 until March 11, 2006 for DS1 Dedicated Transport and DS3 Dedicated Transport, and until September 11, 2006 for Dark Fiber Dedicated Transport. The transition rate shall not exceed the higher of (i) 115% of the TELRIC rate Conversent paid for that element on June 15, 2004; or (ii) 115% of the TELRIC rate the Commission establishes, if any between June 16, 2004 and March 11, 2005.

3.4.2.4.2 If the Commission established a rate for Unbundled Dedicated Interoffice Transport between June 16, 2004 and March 11, 2005, that increases some rate elements and decreases other rate elements, the ILEC must either accept all or reject all of those more recently established rates for purposes of establishing the transition rate for Dedicated Transport.

3.4.2.4.3 Verizon may assess a true up charge, as necessary, back to March 11, 2005 for any transitional charges that were not collected for the time period between March 11, 2005, and the effective date of this Amendment. Although true up charges may be assessed back to March 11, 2005, no late payments or penalties may be calculated where Conversent timely pays the true-up charge within the billing cycle time allotted from receipt of the true up bill.

3.4.2.5 Entrance Facilities shall be subject to the transition provisions and rates set forth in Section 3.4.2.4. For the avoidance of doubt, dark fiber entrance facilities shall be subject to the transition provisions and rates applicable to Dark Fiber Dedicated Transport.

3.5 Section 251(c)(2) Interconnection Facilities. Interconnection facilities and equipment provided pursuant to 47 U.S.C. Section 251(c)(2) ("Interconnection Facilities") are not UNEs provided pursuant to 47 U.S.C. Section 251(c)(3) and nothing in this Amendment is intended to impair or limit in any way Conversent's rights to obtain access to 251(c)(2) Interconnection Facilities. Interconnection Facilities include, but are not limited to, transport facilities and equipment between the Conversent switch and the Verizon Tandem Switch, or other Point of Interconnection designated by Conversent, used for the exchange of traffic between Conversent and Verizon as well as all associated Signaling and Call-Related Database functionality. Interconnection Facilities are to be provided by Verizon to Conversent at rates consistent with the TELRIC pricing principles established by the FCC and the Commission.

3.6 Commingling, Conversions, and Combinations.

- 3.6.1 Commingling and Conversions. Subject to the conditions set forth in the following Section 3.4.2, as of October 2, 2003 Verizon shall permit Conversent to commingle a UNE or Combination or Declassified Network Elements with wholesale services obtained from Verizon, and to also convert wholesale services to a UNE or Combination. Commingling is defined as set forth in FCC Rule 51.5. Verizon shall, upon request of Conversent, perform the functions necessary to commingle a UNE or Combination with one or more facilities or services or inputs that Conversent has obtained at wholesale from Verizon. Verizon shall not impose any policy or practice related to commingling that imposes an unreasonable or undue prejudice or disadvantage upon Conversent, and in no event shall Verizon impose any policy or practice relating to commingling that is inconsistent with Section 3.4.2 below. Subject to Section 3.4.2.2, the rates, terms and conditions of the applicable access tariff will apply to wholesale services, and the rates, terms and conditions of this Amended Agreement or the Verizon UNE tariff, as applicable, will apply to UNEs or Combinations or to the Declassified Network Elements as set forth in Exhibit A to this Amended Agreement. "Ratcheting," as that term is defined by the FCC, shall not be required. In addition, Verizon shall cooperate fully with Conversent to ensure that operational policies and procedures implemented to effect Commingled arrangements shall be handled in such a manner as to not operationally or practically impair or impede Conversent's ability to implement new Commingled arrangements and convert existing arrangements to Commingled arrangements in a timely and efficient manner and in a manner that does not affect service quality, availability, or performance from the end user's perspective. For the avoidance of doubt, Verizon acknowledges and agrees that the language of this Amendment complies with and satisfies the requirements of Verizon's wholesale and access tariffs with respect to Commingling. Verizon shall not change its wholesale and access tariffs in any fashion that adversely impacts the availability or provision of Commingling under this Amendment or the Agreement.
- 3.6.2 Service Eligibility Criteria for Certain Combinations, Conversions, and Commingled Facilities and Services. Verizon shall provide EELs pursuant to the requirements set forth in the TRO, including the service eligibility criteria established by the TRO and set forth in Rule 51.318, for high capacity loop and transport combinations known as EELs. For the avoidance of any doubt, to the extent that commingling restrictions applied prior to the TRO, such restrictions applied to EELs only.
- 3.6.2.1 To the extent the service eligibility criteria for high capacity EELs apply, Conversent shall be permitted to self certify its compliance with these criteria. Conversent may elect to self-certify using a written or electronic notification sent to Verizon. Conversent must remain in compliance with said service eligibility criteria for so long as Conversent continues to receive the aforementioned combined, converted, or commingled facilities and/or services from Verizon. The service eligibility criteria shall be applied to each DS1 circuit or DS1 equivalent circuit. The foregoing shall apply whether the circuits in question are being provisioned to establish a new circuit or to convert an existing wholesale service, or any part thereof, to unbundled network elements.
- 3.6.2.2 On an annual basis (i.e., one 12-month period), Verizon may, pursuant to the terms and conditions of this section, obtain and pay for an independent auditor to audit Conversent's compliance

in all material respects with the service eligibility criteria applicable to specific EELs as to which Verizon notifies Conversent that it believes to be non-compliant with the service quality criteria. Such annual audit will be initiated only to the extent reasonably necessary to determine Conversent's compliance with Applicable Law. Conversent and the FCC shall each be given thirty (30) days' written notice of a scheduled audit. Any such audit shall be performed in accordance with the standards established by the American Institute for Certified Public Accountants and may include, at Verizon's discretion, the examination of a sample selected in accordance with the independent auditor's judgment. Verizon shall direct its auditor to provide a copy of its report to Conversent at the same time it provides the report to Verizon. To the extent the independent auditor's report concludes that Conversent failed to comply in all material respects with the service eligibility criteria, then Conversent will promptly take action to correct the noncompliance and true up any difference in payments and reimburse Verizon for the cost of the independent auditor within thirty (30) days after receiving a statement of such costs from Verizon. Should the independent auditor confirm Conversent's compliance in all material respects with the service eligibility criteria, then Conversent shall provide to the independent auditor a statement of Conversent's costs of complying with any requests of the independent auditor, and Verizon shall then reimburse Conversent for its costs associated with the audit within thirty (30) days after receiving Conversent's statement. Conversent shall maintain records adequate to support its compliance with the service eligibility criteria for each DS1 or DS1 equivalent circuit.

- 3.6.3 There will be no charges for conversion from wholesale to UNEs or UNE combinations, unless a specific tariff charge has been approved for that purpose.
  - 3.6.3.1 Any substitution of UNEs for wholesale services shall be subject to all of the requirements of the Amended Agreement applicable to the purchase of UNEs and Combinations, and shall include without limitation the following:
  - 3.6.3.2 When a wholesale service employed by Conversent is replaced with UNEs, Verizon shall not physically disconnect, separate, alter or change in any other fashion equipment and facilities employed to provide the wholesale service, except at the request of Conversent.
- 3.6.4 Verizon shall process expeditiously all conversions requested by Conversent without adversely affecting the service quality perceived by Conversent's end user customer.
  - 3.6.4.1 Until such time as Verizon implements its ASR-driven conversion process in the East, conversion of access circuits to unbundled Network Elements will be performed manually pursuant to Verizon's conversion guidelines. Conversent may request conversions of any existing service or group of services to UNEs by submitting a written or electronic request. Except where Conversent specifically requests that Verizon physically



disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service being replaced, the conversion order shall be deemed to have been completed effective upon receipt by Verizon of the written or electronic request from Conversent, and recurring charges for UNEs set forth in Verizon's applicable tariffs shall apply as of such date. For the avoidance of any doubt, conversion requests issued after the effective date of the TRO, but before the effective date of this Amendment ("Pending Requests"), shall be deemed to have been completed on the date Verizon received the Pending Request and retroactive adjustments between the applicable UNE charges and the previously applicable charges shall be calculated back to the date that Verizon received notice from Conversent of the Pending Request. The UNE charges for all conversion requests (including any retroactive adjustments) shall be reflected in the first billing cycle following the effective date of this Amendment. If that bill does not reflect the appropriate charges, Conversent is nevertheless obligated to pay no more than the applicable UNE rate.

- 3.6.4.2 Pricing changes for conversion requests submitted after the Amendment Effective Date shall become effective upon receipt by Verizon of Conversent's request and shall be made by Verizon in the first billing cycle after such request. If any bill does not reflect the appropriate charge adjustment, Conversent may withhold payment in an amount that reflects the amount of the adjustment that should have been made on the bill for the applicable conversions. Where Conversent specifically requests that Verizon physically disconnect, separate, alter or change the equipment and facilities employed to provide the wholesale service, recurring charges set forth in Verizon's applicable tariffs and applicable to UNEs shall apply effective upon the earlier of (a) the date on which Verizon completes the requested work or (b) the standard interval for completing such work (in no event to exceed 30 days), regardless of whether Verizon has in fact completed such work. Verizon shall bill Conversent pro rata for the wholesale service through the date prior to the date on which billing at UNE rates commences pursuant to this Section. The effective bill date for conversions is the first of the month following Verizon's receipt of an accurate and complete ASR or electronic request for conversion pursuant to Verizon's conversion guidelines.
- 3.6.4.3 All ASR-driven conversion requests will result in a change in circuit identification (circuit ID) from access to UNE or UNE to access.

### 3.7 Routine Network Modifications.

- 3.7.1 General Conditions. In accordance with 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51, or other Applicable Law:
  - 3.7.1.1 Routine network modifications are those activities that Verizon performs for its own customers. They include, but are not limited to, rearranging or splicing of cable; adding a doubler or repeater; adding an equipment case; adding a smart jack; installing a

repeater shelf; adding a line card; deploying a new multiplexer or reconfiguring an existing multiplexer; and attaching electronic and other equipment that the incumbent LEC ordinarily attaches to a DS1 loop to activate such loop for its own customer. They also include activities needed to enable a requesting telecommunications carrier to obtain access to dark fiber transport, including but not limited to the work done on dark fiber to provision lit capacity to end users. Routine network modifications may entail activities such as accessing manholes, deploying bucket trucks to reach aerial cable, and installing equipment casings. Routine network modifications do not include the construction of a new loop, or the installation of new aerial or buried cable for a requesting telecommunications carrier. Determination of whether a modification is "routine" shall be based on the tasks associated with the modification, not on the end-user service that the modification is intended to enable.

3.7.1.2 Verizon shall make such routine network modifications, in a nondiscriminatory manner, as are necessary to permit access by Conversent to the unbundled network elements available under the Amended Agreement. The costs for such routine network modifications are already included in the existing rates and charges for the Unbundled Network Elements as set forth in the Agreement.

3.7.2 Performance Plans. Verizon's performance in connection with the provisioning of unbundled Network Elements for which Routine Network Modifications are necessary remains subject to standard provisioning intervals, and to performance measures and remedies, if any, contained in the Amended Agreement or under Applicable Law. Routine Network Modifications must be completed by Verizon within the same timeframe applicable to similar network modifications made by Verizon to provide comparable functionality to its own retail customer.

### 3.8 Wire Center Lists.

3.8.1 Verizon Wire Centers that Verizon asserts currently meet the above Wire Center Criteria for high-capacity loops and Dedicated Transport as described in the preceding paragraphs of this Section 3, are attached as Appendix \*\*\* (hereinafter referred to as the "Wire Center List"). If the Wire Center List has not been independently verified by the Commission, the individual Wire Centers/routes listed are subject to challenge by Conversent in the following circumstances at a minimum: (i) when Conversent submits a request for conversion of special access facilities to a UNE or EEL; (ii) when Conversent submits a request for new Dedicated Transport or High-Capacity Loop UNEs; (iii) when Conversent receives a bill assessing transition rates for a particular loop or Dedicated Interoffice Transport UNE if Conversent asserts the charge is based upon an incorrect designation of a Wire Center; or (iv) after receipt of the information specified in Section 3.8.1.1 below.

3.8.1.1 If, as of the effective date of this Amendment, the Commission has not verified all or part of the Wire Center List applicable to Massachusetts, then Verizon shall, within 10 days after the effective date, provide Conversent with all information in its possession, custody, or control relating to the classification of the Massachusetts wire centers on the Wire Center List, including but

not limited to i) the underlying ARMIS data, ii) the underlying data that was used to calculate UNE loops leased by CLECs in the applicable wire centers, iii) additional information and description concerning the methodology that was used to determine the number of access lines in a given wire center, including how old the ARMIS and UNE loop data is, and what methodology was used to ensure that special access, entrance facilities (formerly a UNE), and OCN transport were not included in the loop data, (iv) to the extent that UNE loops leased by a CLEC typically result in a reduction in VZ business access lines, what adjustments were made to the ARMIS data to account for increases in UNE lines; (v) the identities of all fiber-based collocators in the wire center.

- 3.8.2 If a state verification process finds that the attached Wire Center List is in error, the Wire Center List shall be amended consistent with those findings.
- 3.8.3 If the Wire Center List has not been independently verified by the Commission and Verizon disagrees with any specific Conversent challenges to the Wire Center List, such disputes shall be resolved pursuant to the dispute resolution sections of this Amended Agreement. In any such dispute, Verizon shall have the burden of proof to show that the wire center satisfies the FCC criteria in every respect. If the result of a dispute resolution is that the attached Wire Center List is in error, the Wire Center List shall be amended, with retroactive application, consistent with that resolution.
- 3.8.4 Except for any corrections to the Wire Center List as a result of either state verification or Conversent challenges, or mergers or similar events that affect the number of fiber-based collocators in a wire center, the Wire Center List may not be changed from the attached list for the term of this Agreement.
- 3.8.5 After March 11, 2005, for requests for new unbundled loops or unbundled Dedicated Transport (including Dark Fiber Dedicated Transport), ordered either individually or as part of a combination or conversion request, Conversent shall engage in a reasonably diligent inquiry as to the status of the requested UNE. Conversent's placement of an order for such UNE shall constitute a self-certification, based on that inquiry, that to the best of Conversent's knowledge, the request is consistent with the requirements set forth in the *Triennial Review Remand Order*. Upon receipt of such a request, Verizon must immediately process the request, even if it challenges the request. Any Verizon challenges to Conversent's requests must be resolved via the dispute resolution procedures set forth in this Agreement. Any order submission that is consistent with the Wire Center List, as it may be amended as the result of a state verification process or challenges by Conversent, shall be deemed to have been submitted after a reasonably diligent inquiry pursuant to this section. If the Wire Center List has been independently verified by the Commission, all Conversent requests for unbundled access associated with unbundled loops and Unbundled Dedicated Interoffice Transport shall be consistent with that list.
- 3.9 Transition Rate Billing. Any bills issued by Verizon that include either a transition rate charge or a true up amount for Transitional Declassified Network Elements, shall specifically identify the time period for which such transition rate or true up applies; the applicable transition rate or true up, and details that enable Conversent to identify the specific facilities to which the transition rate or true up amounts apply.

- 3.10 Access To Conduit Space. If Verizon denies a Conversent request for conduit space that Conversent would otherwise use to deploy DS1 or DS3 Loops or Dedicated Transport that Conversent is no longer entitled to received on an unbundled basis pursuant to this Section 3, or if more than 45 days have passed since the initial request for conduit space and access to the requested conduit has not been granted, Conversent may, upon the occurrence of either of these events, elect to lease, for up to a three year term, a suitable facility (such as high cap loops and/or transport or an EEL) provided by Verizon at a rate equal to the TELRIC rate for such facility, and subject to the terms and conditions for such facility set forth in the Agreement. If conduit space subsequently becomes available, Verizon shall immediately notify Conversent and Conversent may opt to utilize the conduit space without affecting its rights to use in-place facilities priced at TELRIC rates.
- 3.11 Conversions from Transitional Declassified Network Elements. The preceding parts of this Section 3 set forth various transitional rates, terms, and conditions associated with Transitional Declassified Network Elements.
- 3.11.1 The Conversion Process. Verizon shall not make any unilateral changes to convert Transitional Declassified Network Elements to alternative arrangements. For any Transitional Declassified Network Elements, Conversent shall request conversion from UNE pricing to pricing under an analogous access service, if one exists (including converting Transitional Declassified Network Elements to any special access volume discount offerings), or an alternative service arrangement (such as resale) at any time after the effective date of this Agreement, and prior to the last day a transition rate applies to a Transitional Declassified Network Element. Unless Conversent specifically requests an earlier date, the effective date of any such requested conversions shall not be any sooner than the day after the last day that the transition rate applies to a particular Transitional Declassified Network Element, and any recurring charges applicable to the requested alternative service arrangement shall apply as of that date and be reflected in the next billing cycle.
- 3.11.2 Dark Fiber. The parties agree that there currently is no analogous access service for Dark Fiber Loops and Dark Fiber Dedicated Transport. No later than September 10, 2005, Verizon will file with the Commission, for Commission review and approval, tariffs for substitute services for Dark Fiber Loops and Dark Fiber Dedicated Transport at just and reasonable rates.
- 3.11.3 All conversions from Transitional Declassified Network Elements shall take place in a seamless manner without any customer disruption or adverse effects to service quality and notwithstanding other provisions herein, shall be done in accordance with a mutually agreed upon process. The Parties agree to work together to develop a mutually agreeable, conversion process that includes agreement on the conversion request formats and associated systems, as well as agreement on what additional information is needed from Verizon to enable Conversent to identify the loop and Dedicated Transport network elements that are to be converted. Notwithstanding any other provisions herein, if the Parties fail to arrive at a mutually agreeable conversion process by the deadline for submissions of conversion requests set forth in Section 3.11.1 above, the deadline for such conversions shall be extended until mutual agreement is reached on the conversions process and a new time frame within which Conversent shall submit its conversion requests shall be agreed upon between the Parties. During this time period, Verizon shall continue to apply the transition rates.

- 3.11.4 After the Parties agree to a conversion process, Verizon may assess a true up charge to collect the difference between the recurring charges for the selected alternative arrangements and the transitional charges for the time period between the end of the initially established transition period for the particular Transitional Declassified Network Element and the date the conversion requests are completed.
- 3.11.5 Verizon will not require physical rearrangements if a conversion can be completed through billing changes only, and will not physically disconnect, separate or alter or change the facilities being replaced, except at the request of Conversent. The effective date of conversion requests completed through billing changes shall be as set forth in Section 3.11.1. If a physical rearrangement is requested by Conversent, unless Conversent requests an earlier date, the conversion request shall be deemed to be completed the last day that the transition rate applies to a particular Transitional Declassified Network Element; and the recurring charges for the new arrangement shall apply as of that date and shall appear on the bill in the next billing cycle.
- 3.11.6 Conversion Charges. Verizon shall not impose any termination, re-connect or other non-recurring charges associated with any conversion or any discontinuance of any Transitional Declassified Network Elements.
- 3.12 Notwithstanding any other provision of the Amended Agreement, for any Declassified Network Element or Transitional Declassified Network Element that Verizon remains obligated to provide as an unbundled network element pursuant to 47 U.S.C. § 271 or other Applicable Law, Verizon shall provide the Network Element without interruption pursuant to the rates, terms, and conditions set forth in the Agreement and/or as required by Applicable Law.

#### 4. Miscellaneous Provisions.

- 4.1 Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of the Agreement this Amendment shall govern, provided, however, that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 4.1.
- 4.2 Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.
- 4.3 Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.
- 4.4 Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly herein. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement." Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement.

4.5 Reservations of Rights.

4.5.1 Notwithstanding any contrary provision in the Agreement, this Amendment, or any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the [\*\*\*State Commission TXT\*\*\*], the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's rights or obligations under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law.

4.5.2 State TRO/TRRO Proceedings. Nothing contained in this Amendment is intended to waive either Party's right to incorporate the Commission's decisions resulting from any TRO or TRRO proceedings. Any such decisions that materially affect any material terms of the Amended Agreement shall be considered a change in law and shall be subject to the change in law provisions of the Amended Agreement, if any.

4.5.3 Conversent reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item not identified in the Agreement, this Amendment, or any Verizon tariff or SGAT (a) is a network element under 47 U.S.C. Sec. 251(c)(3) or other Applicable Law, (b) is a network element Verizon is required to provide by 47 U.S.C. Sec. 251(c)(3) or other Applicable Law to Conversent, or (c) is an item that Verizon is required to offer to Conversent at the rates set forth in the Amended Agreement or to be determined in accordance with this Agreement and Applicable Law. Verizon reserves the right to argue in any proceeding before the Commission, the FCC or another governmental body of competent jurisdiction that an item identified in the Agreement or this Amendment as a network element (a) is not a network element under 47 U.S.C. § 251(c)(3) or other Applicable Law, (b) is not a network element Verizon is required by 47 U.S.C. § 251(c)(3) or other Applicable Law to provide to Conversent, or (c) is an item that Verizon is not required to offer to Conversent at the rates set forth in the Amended Agreement.

4.6 Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.

4.7 Definitions. Notwithstanding any other provision in the Agreement or any Verizon tariff or SGAT, the following terms, as used in the Amended Agreement, shall have the meanings set forth below:

4.7.1 Business Access Line. A business access line is a Verizon switched access line used to serve a business customer, whether by Verizon itself or by a competitive LEC that leases the line from the Verizon. The number of business lines in a wire center shall equal the sum of all Verizon business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with Verizon end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line.

- 4.7.2 Call-Related Databases. Databases, other than operations support systems, that are used in signaling networks for billing and collection, or the transmission, routing, or other provision of a telecommunications service. Call-related databases include, but are not limited to, the calling name database, 911 database, E911 database, line information database, toll free calling database, advanced intelligent network databases, and downstream number portability databases.
- 4.7.3 Dark Fiber Loop. Consists of fiber optic strand(s) in a Verizon fiber optic cable between Verizon's accessible terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon wire center, and Verizon's accessible terminal located in Verizon's main termination point at an end user customer premises, such as a fiber patch panel, and that Verizon has not activated through connection to electronics that "light" it and render it capable of carrying telecommunications services. It also includes strands of optical fiber existing in aerial, buried, or underground cables which may have lightwave repeater (regenerator or optical amplifier) equipment interspliced to it at appropriate distances, but which has no attached line terminating, multiplexing, or aggregation electronics.
- 4.7.4 Dark Fiber Dedicated Transport. Dark Fiber Transport shall be as defined in FCC Rule 51.319. Without limiting the foregoing, such facilities include the physical transmission media (e.g., optical fiber) which are "in place" or can be made spare and continuous via routine network modifications in Verizon's network, but are not being used to provide service, and which Verizon shall provide on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Dark Fiber is fiber within an existing fiber optic cable that is not activated through optronics to render it capable of carrying communications services. It also includes strands of optical fiber existing in aerial, buried, or underground cables which may have lightwave repeater (regenerator or optical amplifier) equipment interspliced to it at appropriate distances, but which has no attached line terminating, multiplexing, or aggregation electronics..
- 4.7.5 Dedicated Transport. A transmission facility between Verizon switches or wire centers, (including Verizon switching equipment located at Conversent's premises), within a LATA, that is dedicated to a particular customer or carrier and that is provided on an unbundled basis pursuant to 47 U.S.C. § 251(c)(3), 47 C.F.R. Part 51 or other Applicable Law. Entrance Facilities, as defined by Section 4.7.11, are one type of Dedicated Transport.
- 4.7.6 Declassified Network Elements. Any facility that Verizon was obligated to provide to Conversent on an unbundled basis pursuant to Applicable Law, the Agreement or a Verizon tariff or SGAT, but which Verizon is no longer obligated to provide on an unbundled basis under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51.
- 4.7.7 DS1 Dedicated Transport. Dedicated Transport having a total digital signal speed of 1.544 Mbps.
- 4.7.8 DS3 Dedicated Transport. Dedicated Transport having a total digital signal speed of 44.736 Mbps.
- 4.7.9 DS1 Loop. A digital transmission channel suitable for the transport of 1.544 Mbps digital signals. A DS1 Loop includes the electronics necessary to provide the DS1 transmission rate.

- 4.7.10 DS3 Loop. A digital transmission channel suitable for the transport of isochronous bipolar serial data at a rate of 44.736 Mbps (the equivalent of 28 DS1 channels). A DS3 Loop includes the electronics necessary to provide the DS3 transmission rate.
- 4.7.11 Entrance Facility. A transmission facility (lit or unlit) or service provided between (i) a Verizon wire center or switch and (ii) a switch or wire center of Conversent or a third party, but excluding any facilities used for interconnection or the transport and termination of local traffic under 47 U.S.C. § 251(c)(2).
- 4.7.12 Feeder. The fiber optic cable (lit or unlit) or metallic portion of a Loop between a serving wire center and a remote terminal (if present) or feeder/distribution interface.
- 4.7.13 Fiber-Based Collocator. A fiber-based collocator is any carrier, unaffiliated with Verizon, that maintains a collocation arrangement in a Verizon Wire Center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at a collocation arrangement within the Wire Center; (2) leaves the Verizon Wire Center premises; and (3) is owned by a party other than Verizon or any affiliate of the incumbent LEC, except as set forth in this paragraph. Dark fiber obtained from an Verizon on an indefeasible right of use basis shall be treated as non-Verizon fiber-optic cable. Two or more affiliated fiber-based collocators in a single wire center shall collectively be counted as a single fiber-based collocator. For purposes of this Section, the term affiliate is defined by 47 U.S.C. § 153(1) and any relevant interpretation in Title 47 of the United States Code. For purposes of this Agreement, (i) MCI, Inc. and any of its affiliates are not “unaffiliated with Verizon,” and (ii) AT&T and all of its affiliates, and SBC and all of its affiliates, collectively are counted as one fiber-based collocator.
- 4.7.14 Fiber-to-the-curb (FTTC) loop. A fiber-to-the-curb loop is a mass-market local loop consisting of fiber optic cable connecting to a copper distribution plant that is not more than 500 feet from the residential customer’s premises or, in the case of predominantly residential MDUs, not more than 500 feet from the MDU’s MPOE. The fiber optic cable in a fiber-to-the-curb loop must connect to a copper distribution plant at a serving area interface from which every other copper distribution subloop also is not more than 500 feet from the respective residential customer’s premises.
- 4.7.15 Fiber-to-the-home (FTTH) loop. A fiber-to-the-home loop is a mass-market local loop consisting entirely of fiber optic cable, whether dark or lit, serving a residential end user’s customer premises or, in the case of predominantly residential multiple dwelling units (MDUs), a fiber optic cable, whether dark or lit, that extends to the multiunit premises’ minimum point of entry (MPOE).
- 4.7.16 Hybrid Loop. A local Loop composed of both fiber optic cable and copper wire or cable, including such intermediate fiber-in-the-loop architectures as FTTN, and FTTB.
- 4.7.17 Inside Wire Subloop. As set forth in FCC Rule 51.319(b), a Verizon-owned or controlled distribution facility in Verizon’s network between the minimum point of entry (“MPOE”) at a multiunit premises where an end user customer is located and the Demarcation Point for such facility.



- 4.7.18 Line Sharing. The process by which Conversent provides xDSL service over the same copper Loop that Verizon uses to provide voice service by utilizing the frequency range on the copper loop above the range that carries analog circuit-switched voice transmissions (the High Frequency Portion of the Loop, or "HFPL"). The HFPL includes the features, functions, and capabilities of the copper Loop that are used to establish a complete transmission path between Verizon's main distribution frame (or its equivalent) in its serving Wire Center and the demarcation point at the end user's customer premises, and includes the high frequency portion of any inside wire (including any Inside Wire Subloop) owned and controlled by Verizon.
- 4.7.19 Route. For purposes of FCC Rule 51.319 (e) through (e)(4), a transmission path between one of Verizon's wire centers or switches and another of Verizon's wire centers or switches. A route between two points (e.g., wire center or switch "A" and wire center or switch "Z") may pass through one or more Verizon intermediate wire centers or switches (e.g., Verizon wire center or switch "X"). Transmission paths between identical end points (e.g., Verizon wire center or switch "A" and Verizon wire center or switch "Z") are the same "route", irrespective of whether they pass through the same intermediate Verizon wire centers or switches, if any.
- 4.7.20 Single Point of Interconnection (SPOI). The Single Point of Interconnection (SPOI) is a cross-connect device that provides non-discriminatory access for cross connections to all intra-premise subloop elements and to all units in a multi-tenant environment (MTE). The SPOI shall be capable of terminating multiple carriers' outside plant that serve a particular premise.
- 4.7.21 Subloop. A subloop (including Inside Wire Subloops, defined above) is a portion of a copper loop, or hybrid loop, between any technically feasible point in Verizon's outside plant, including inside wire owned, controlled or leased by Verizon, and the end-user customer premises. A subloop includes all intermediate devices (e.g. repeaters and load coils), and includes the features, functions, and capabilities of the loop. A subloop includes two-wire and four-wire analog voice grade subloops and two-wire and four-wire subloops conditioned for digital service, regardless of whether the subloops are in service or held as spares.
- 4.7.22 Sub-Loop for Multiunit Premises Access. Any portion of a Loop (including Inside Wire) that is technically feasible to access at a terminal in Verizon's outside plant at or near a multiunit premises. For access to copper Subloops, it is technically feasible to access any portion of a Loop at any terminal in Verizon's outside plant, or inside wire owned or controlled by Verizon, as long as a technician need not remove a splice case to access the wire or copper of the Subloop; provided, however, near Remote Terminal sites, Verizon shall, upon site-specific request by Conversent, provide access to a Subloop at a splice.
- 4.7.23 Transitional Declassified Network Elements. A Declassified Network Element that is subject to transitional rules and/or rates established by the FCC, including but not limited to those set forth in 47 C.F.R. § 51.319(a)(4)(iii), 5(iii), 6(ii), (e)(2)(ii)(C), (iii)(C), and (iv)(B).
- 4.7.24 Wire Center. A wire center is the location of a Verizon local switching facility containing one or more central offices, as defined in 47 C.F.R. Part 51.5. The wire center boundaries define the area in which all customers served by a given wire center are located.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Amendment to be executed as of the Amendment Effective Date.

**CONVERSENT COMMUNICATIONS OF  
MASSACHUSETTS, LLC**

**[VERIZON LEGAL ENTITY]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: David L. Mayer

Printed: \_\_\_\_\_

Title: Executive Vice President

Title: \_\_\_\_\_

## **Pricing Attachment to the TRO Amendment**

### **1. General**

#### **1.1 As used in this Attachment:**

1.1.1 "Services" means and includes any Network Element or other service, facility, equipment or arrangement, provided pursuant to this Amendment; and,

1.1.2 "Charges" means the rates, fees, charges and prices for a Service.

1.2 Charges for Services provided under the Amended Agreement shall be those set forth in Exhibit A of this Pricing Attachment and in the Amended Agreement (including any cross references therein to applicable tariffs). For rate elements provided in Exhibit A of this Pricing Attachment that do not include a Charge, if any, whether marked as "TBD" or otherwise, Verizon is developing such Charges and has not finished developing such Charges as of the Amendment Effective Date. When Verizon finishes developing such a Charge, Verizon shall notify Conversent in writing of such Charge in accordance with, and subject to, the notices provisions of the Amended Agreement and thereafter shall bill Conversent, and Conversent shall pay to Verizon, for Services provided pursuant to this Amendment on the Amendment Effective Date and thereafter in accordance with such Charge. Any Charges set out in a notice provided by Verizon to Conversent pursuant to this Section 1.2 shall be deemed to be a part of Exhibit A of this Pricing Attachment immediately after Verizon sends such notice to Conversent and thereafter.

1.3 In the absence of Charges for a Service established pursuant to Section 1.2 of this Attachment, the Charges for the Service shall be the Charges required, approved, or otherwise allowed to go into effect, by the [\*\*\*State Commission TXT\*\*\*] or the FCC (including, but not limited to, in a tariff that has been filed with the [\*\*\*State Commission TXT\*\*\*] or the FCC), provided such Charges are not subject to a stay issued by any court of competent jurisdiction.

1.4 In the absence of Charges for a Service established pursuant to Sections 1.2 through 1.3 of this Attachment, the Charges for the Service shall be mutually agreed to by the Parties in writing.

## Exhibit A